IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 19TH MARCH 2007 / 28TH PHALGUNA 1928

WP(C).No. 21819 of 2006(V)

PETITIONER:

K.S. MOHAMMED SAMEER, MANAGING PARTNER
M/S. HI-TECH RUBBER COMPANY, VENGOLA,
PERUMBAVOOR, REPRESENTED BY HIS POWER OF ATTORNEY
HOLDER, M. SAIDU MOHAMMED, KALATHIL HOUSE,
U.C. COLLEGE, ALWAYE.

BY ADV. SRI.C.K.ABDUL RAHIM

RESPONDENTS:

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1. THE KERALA FINANCIAL CORPORATION
REPRESENTED BY ITS MANAGING DIRECTOR
VELLAYAMBALAM, THIRUVANANTHAPURAM.

2. THE DEPUTY COLLECTOR (REVENUE RECOVERY)
THE KERALA FINANCIAL CORPORATION,
VELLAYAMBALAM, THIRUVANANTHAPURAM.

3. THE DEPUTY TAHASILDAR (REVENUE RECOVERY)
THE KERALA FINANCIAL CORPORATION,
ERNAKULAM, KALOOR, KOCHI-17.

4. THE BRANCH MANAGER, THE KERALA
FINANCIAL CORPORATION, PERUMBAVOOR.

ADDL.5. T.P.JACOB, THEPPALA HOUSE,
WEST VENGOLA P.O., PERUMBAVOOR.

(ADDL.5TH RESPONDENT IS IMPLEADED AS PER ORDER
DATED 25.9.2006 IN IA 12265/06)

BY ADV. SRI.M.SASINDRAN
R1 SRI.P.PARAMESWARAN NAIR, SC, KFC
R2 & R3 BY GOVERNMENT PLEADER SMT.N.SUDHADEVI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 COPY OF POWER OF ATTORNEY DATED 18.7.2006.

EXT.P2 COPY OF SALE NOTICE DATED 12.5.2006.

EXT.P2(A) SCHEDULE OF PROPERTY ATTACHED ALONG WITH THE SALE NOTICE.

EXT.P3 COPY OF REPRESENTATION SUBMITTED TO R3 DATED 31.7.2006.

EXT.P4 COPY OF REQUEST SUBMITTED TO R4 WITH COPY TO R2 DATED 10.8.2006.

EXT.P5 COPY OF THE LETTER ISSUED BY THE 3RD RESPONDENT DATED 11.8.2006

EXT.P6 COPY OF THE LETTER ISSUED BY THE 4TH RESPONDENT DATED 22.8.2006.

RESPONDENTS' EXHIBITS:

EXT.R3(A) TRUE COPY OF THE RELEVANT PAGE OF THE MATHRUBHUMI DAILY DATED 8.4.2004.

EXT.R3(B) TRUE COPY OF THE RELEVANT PAGE OF THE MALAYALA MANORAMA DAILY DATED 5.7.04.

EXT.R3(C) TRUE COPY OF THE REGISTERED NOTICE WITH ACKNOWLEDGEMENT CARD SENT TO THE PETITIONER, RETURNED WITH THE ENDORSEMENT 'ADDRESSEE LEFT INDIA'.

EXT.R3(D) TRUE COPY OF THE LETTER DATED 14.8.2006.

ANNEXURE R4(1) TRUE COPY OF THE PAPER PUBLICATION MADE IN MATHRUBHUMI AND MANGALAM VERNACULAR DAILIES BY THE 4TH RESPODNENT DATED 20.3.2006 AND 19.3.2006.

ANNEXURE R4(2) TRUE COPY OF THE AUCTION NOTICE ISSUED BY THE 4TH RESPONDENT DATED NIL.

/ TRUE COPY /

K.BALAKRISHNAN NAIR, J.

W.P.(C) No. 21819 of 2006

Dated this the 19th day of March, 2007.

JUDGMENT

The petitioner has approached this Court challenging Exts.P2 and P2(a) revenue recovery notices under which the assets of the petitioner's industrial unit were sold in public auction. The additional 5th respondent is the auction purchaser. The petitioner attacked the revenue sale on various grounds. Absence of proper notice was also pleaded. But Exts.R4(1) and R4(2) would show that there was paper publication before the actual sale was made on 14.6.2006. So the main ground on which the attack was made against the sale is unsustainable. But the learned counsel for the petitioner submits that he is willing to pay the amount remitted by the auction purchaser with reasonable interest and subject to that condition he may be given a chance to close the loan account under one time settlement scheme.

2. Having regard to the facts of the case I direct the competent authority to consider the request of the petitioner to redeem the property by paying the amount deposited by the additional 5th respondent with reasonable interest. The competent authority shall also consider the claim of the petitioner for one time settlement after a

decision is taken on the redemption of the property as mentioned above. The petitioner shall produce a copy of this judgment before the first respondent within two weeks from today. In that event the confirmation of sale shall be made only subject to the decision of the Kerala Financial Corporation on the aforementioned two points.

The writ petition is disposed of as above.

K.BALAKRISHNAN NAIR,
Judge.

vns.